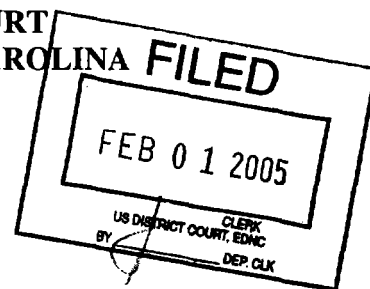


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:05-CV-48-FL(1)**



Richard P. Nordan, as Ancillary)
Administrator for the separate Estates of)
STEPHEN H. HELVENSTON, MIKE R.)
TEAGUE, JERKO GERALD ZOVKO and)
WESLEY J. K. BATALONA,)

Plaintiff,)

v.)

BLACKWATER SECURITY)
CONSULTING, LLC, a Delaware Limited)
Liability Company; BLACKWATER)
LODGE AND TRAINING CENTER, INC.)
a Delaware Corporation, JUSTIN L.)
McQUOWN, an individual; and THOMAS)
POWELL, an individual,)

Defendants.)

**DEFENDANT JUSTIN L.
McQUOWN'S MOTION
TO DISMISS**

DEFENDANT, JUSTIN L. MCQUOWN'S, MOTION TO DISMISS

Defendant, Justin L. McQuown, files the following Motion to Dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure:

1. For the reasons stated in more detail in the attached Memorandum of Law in support of this Motion, the Defense Base Act, 42 U.S.C. §§ 1651 *et seq.* and the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 933, provide the exclusive remedy available to Plaintiff for the claims alleged in the Complaint.

2. Accordingly, the Complaint fails to state a claim upon which relief can be granted and the action should be dismissed with prejudice.

WHEREFORE, Defendant, Justin L. McQuown, respectfully requests that the Court dismiss this action against him with prejudice.

Dated: February 1, 2005.

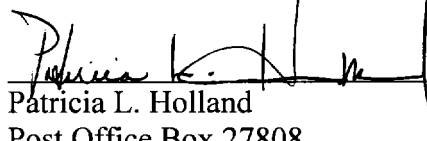
Respectfully submitted,

Powell Goldstein LLP



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State Bar No. 8816
LR 83.1 Counsel

ATTORNEYS FOR JUSTIN L. MCQUOWN

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing MOTION TO DISMISS in the above-entitled action on all of the parties to this cause by:

_____ Hand delivering a copy hereof to the attorney for each said party addressed as follows:

~~_____~~ Depositing a copy hereof, postage prepaid, in the United States Mail, addressed to the attorney for each said party as follows:

_____ Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each said party as follows:

_____ Telecopying a copy hereof to the attorney for each said party as follows:

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This the 1st day of February, 2005.



CRANFILL, SUMNER & HARTZOG, L.L.P.